

SENATE BILL NO. 721

January 15, 2020, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 2008 PA 148, entitled "Personal property trust perpetuities act," by amending section 3 (MCL 554.93), as amended by 2012 PA 484, and by adding section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 2a. (1) Except as provided in subsection (2), the period**
2 **during which the vesting of a future interest in property may be**
3 **postponed by the exercise of a second power is determined under the**
4 **uniform statutory rule against perpetuities by reference to the**
5 **time of the creation of the power of appointment that subjected**

1 property to, or created, the second power. Except as provided in
2 subsection (2), a nonvested interest, a general power of
3 appointment not presently exercisable because of a condition
4 precedent, or a nongeneral or testamentary power of appointment
5 created, or to which property is subjected, by the exercise of the
6 second power is invalid, to the extent of the exercise of the
7 second power unless the interest or power satisfies the uniform
8 statutory rule against perpetuities measured from the time of the
9 creation of the power of appointment that subjected property to, or
10 created, the second power.

11 (2) To the extent a second power is created or has property
12 subjected to it by exercise of a first power, subsection (1) does
13 not apply to interests or powers created by exercise of the second
14 power if both of the following apply:

15 (a) The first power was not itself created or augmented by the
16 exercise of either a first power or a second-order fiduciary power.

17 (b) The instrument exercising the first power to subject
18 property to or create the second power expressly declares that
19 subsection (1) does not apply to interests and powers created by
20 exercise of the second power. For purposes of the declaration
21 described in this subdivision, subsection (1) may be referred to as
22 the anti-Delaware-tax-trap provision of this act.

23 Sec. 3. (1) ~~Except as provided in subsection (3), an~~ An
24 interest in, or power of appointment over, personal property held
25 in trust is not invalidated by a rule against any of the following:

26 (a) Perpetuities.

27 (b) Suspension of absolute ownership.

28 (c) Suspension of the power of alienation.

29 (d) Accumulations of income.

1 (2) ~~Except as provided in subsection (3), all~~ **All** of the
 2 following may be indefinitely suspended, postponed, or allowed to
 3 go on with respect to personal property held in trust:

4 (a) The vesting of a future interest.

5 (b) The satisfaction of a condition precedent to the exercise
 6 of a general power of appointment.

7 (c) The exercise of a nongeneral or testamentary power of
 8 appointment.

9 (d) Absolute ownership.

10 (e) The power of alienation.

11 (f) Accumulations of income.

12 ~~(3) The period during which the vesting of a future interest~~
 13 ~~in property may be postponed by the exercise of a second power~~
 14 ~~shall be determined under the uniform statutory rule against~~
 15 ~~perpetuities by reference to the time of the creation of the power~~
 16 ~~of appointment that subjected property to, or created, the second~~
 17 ~~power. A nonvested interest, general power of appointment not~~
 18 ~~presently exercisable because of a condition precedent, or~~
 19 ~~nongeneral or testamentary power of appointment created, or to~~
 20 ~~which property is subjected, by the exercise of the second power is~~
 21 ~~invalid, to the extent of the exercise of the second power, unless~~
 22 ~~the interest or power satisfies the uniform statutory rule against~~
 23 ~~perpetuities measured from the time of the creation of the power of~~
 24 ~~appointment that subjected property to, or created, the second~~
 25 ~~power.~~